

**REMARKS**

Review and reconsideration of the Office Action dated March 09, 2007, is respectfully requested in view of the above amendments and the following remarks.

Applicants are submitting herewith two Power of Attorney and Correspondence Address forms executed by the inventors.

**All correspondence should now be directed to:**

Evelyn A. Defillo  
Defillo & Associates, Inc.  
4922 Eagle Cove South Drive  
Palm Harbor, FL 34685  
(727) 772-5916

First, Applicants are pleased to see that the Examiner has already indicated that Claim 3 contains allowable subject matter and would be allowed if re-written in independent form.

Claim 3 has been re-written in independent form.

Claims 1-2 have been canceled. New Claims 4-5 have been added. Claims 4-5 correspond to canceled Claims 1-2. In addition, Claims 4-5 positively recite that the silencer includes a panel having adjacent layers.

In addition, the specification has been amended to concur with US format.

No new matter has been entered to the claims or the specification by the present amendment.

For the reason set forth below, Applicants believe that Claims 4-5 are novel and not obvious over the cited prior art.

#### **Office Action**

Turning to the Office Action, the paragraphing of the Examiner is adopted.

#### **Claims Rejection (Prior Art)**

The Examiner rejects:

Claim 1 under 35 U.S.C. 102(b) as being anticipated by Toyoda et al (U.S. Pat. No. 5,299,634); and

Claim 2 under 35 U.S.C. 103(a) as being obvious over Toyoda et al (U.S. Pat. No. 5,299,634).

The position of the Examiner can be found on pages 2-3 of the Office Action.

Applicants respectfully traverse.

**No where in the reference can be found the teaching of a silencer for a fuming hood.**

Applicants reviewed the Toyoda et al. reference and note that the reference teaches an air conditioner indoor unit having a ventilator and a heat exchanger including an upper casing made of a porous structure, a lower casing, and an air chamber.

According to the Examiner reference number 6 of the Toyoda reference illustrated a lower tray and element 13 illustrates the foam material.

Applicants noted that Column 5, lines 33-37, of the Toyoda reference indicates that:

"The reference numeral 6 designates a decorative panel which is fixed to the partition plate 5 or a side wall (not shown)."

Element 13 shows a foam material stuck to the ceiling panel of the ventilator.

Claim 4 requires a silencer form of a panel having:

an intermediary insulating sheet (5) having opposite sides;

a lower tray (4) in direct contact with one of the sides of the insulating sheet; and

an upper layer of foamed or porous material in direct contact with the other side of the intermediary insulating sheet.

Claim 4 requires that the silencer be formed by a panel having different layers in direct contact with each other. The layers of the panel form a sandwiched-type formation.

First, Applicants note that the reference indeed teaches a porous material located in the casing, but the reference fails to teach an insulating layer in direct contact with a layer made of a porous material.

Furthermore, the reference fails to teach a panel having the 3 adjacent layers (sandwiched configuration). All the elements pointed by the Examiner in the cited reference (6 and 13) are located in different locations inside the ventilator and they are not in direct contact with each other. Furthermore, the elements do not form a panel. The elements are part of a variety of elements inside the ventilation system.

Thus, the reference does not anticipate present Claim 4.

#### **Regarding Claim 5**

Claim 5 requires the addition of latches to the panel in order to fix the panel inside the hood.

According to the Examiner adding the latches to the panel of Toyoda it would have been an obvious improvement to one of ordinary skill in the art.

In order for a 103 rejection to be proper, all of the following must be true: (1) all of the references that the Examiner is relying on must have been in the prior art (in a chronological sense), (2) all of the references must be either in the field of the inventor's endeavor or in a reasonably pertinent field, (3) the reference(s) must generally place the subject matter of the claimed invention in prior art, (4) a reason, suggestion or motivation for combining the teachings of the references to produce the claimed invention must be present in the prior art, and (5) the resulting combination or modification of the prior art would render the claimed invention obvious to a person having ordinary skill in the art.

The third element of the case requires that the references "teach or suggest all the claim limitations," that is, all the features of the claimed invention (MPEP 2143). In the words of the Federal Circuit, "the test for obviousness is not whether the features of one reference may be bodily incorporated into another reference . . . . Rather, we look to see whether combined teachings render the claimed subject matter obvious."

The fourth element requires that the prior art as a whole contain some implicit or explicit reason, suggestion or motivation for a person of ordinary skill (having no knowledge of the claimed invention) to combine or modify the references in the way proposed by the Examiner. Just because references can be combined or modified does not render the proposed combination obvious, unless the prior art also suggests the desirability of the combination (MPEP 2143.01). A reasonable expectation of success of the proposed combination or modification is also required (MPEP 2143.02).

Applicant would like to point out to the Examiner that the silencer of the present invention is designed to be placed inside existing hoods. The silencer does not form an integral part of the hood; thus, its design MUST require some kind of fastening means to place the silencer inside the hood.

In view of the above, adding the latches to the panel of the silencer is not a mere fact of choice, it is a necessity. The latches allow the introduction and removal of the silencer to the hood as well as the partial opening of the silencer to

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the exterior, thereby facilitating the access to the internal mechanisms of the hood in case a repair of the hood is necessary.

There is not any technological reason for Toyoda to modify his design to include latches.

Accordingly, withdrawal of the rejection is respectfully requested.

**Allowable subject matter**

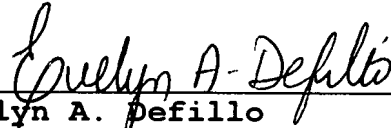
Applicants are pleased to see that the Examiner's indication that Claim 3 contains allowable subject matter.

Claim 3 has been re-written in independent form.

Should further issues remain prior to allowance, the Examiner is respectfully requested to contact the undersigned at the indicated telephone number.

Respectfully submitted,

**Defillo & Associates, Inc.**  
4922 Eagle Cove South Drive  
Palm Harbor, Florida 34685  
(727) 772-5916

  
**Evelyn A. Defillo**  
Registration No. 45,630

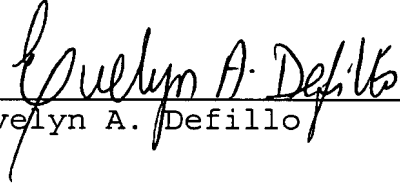
Date: July 09, 2007

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**CERTIFICATE OF MAILING**

I hereby certify that a copy of the foregoing AMENDMENT A for U.S. Application No. **10/552,347** filed October 07, **2005**, was deposited in first class U.S. mail, with sufficient postage, addressed: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on July 09, 2007.

  
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Evelyn A. Defillo